

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

Plaintiff,

vs.

1:20-cr-01228-KWR

JESSE BARELA,

Defendant.

**ORDER GRANTING MOTION IN LIMINE TO EXCLUDE EVIDENCE OF POSSIBLE
PENALTIES**


THIS MATTER comes before the Court on the Government's Second Motion in Limine to Exclude Evidence of Possible Penalties (**Doc. 104**). The Government seeks an order prohibiting Defendant from "asking any question, introducing any evidence, or making any statement or argument, directly or indirectly, that implicates Defendant's potential sentence." *Id.* at 1. For the reasons stated herein, the Court finds that the Government's motion is well taken and therefore is **GRANTED**.

"A jury is obligated to reach its verdict without regard to what sentence might be imposed." *United States v. Greer*, 620 F.2d 1383, 1384–85 (10th Cir. 1980) (internal quotations omitted) (quoting *Rogers v. United States*, 422 U.S. 35, 40 (1975)); *see also* Tenth Cir. Criminal Pattern Jury Instr. 1.20 (2021) ("You should not discuss or consider the possible punishment in any way while deciding your verdict."). Thus, "[u]nless a statute specifically requires jury participation in determining punishment, the jury shall not be informed of the possible penalties." *United States v. Parrish*, 925 F.2d 1293, 1299 (10th Cir. 1991) (abrogated on other grounds). Moreover,

allowing a jury to consider punishment invites jury nullification and is prejudicial. *See Crease v. McKune*, 189 F.3d 1188, 1194 (10th Cir. 1999); *Greer*, 620 F.2d at 1384–85.

Here, the statutes in question, 18 U.S.C. §§ 1951 and § 2, do not require jury participation in determining punishment. Therefore, the Court will exclude any reference to possible punishment or sentence at trial.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE